

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CYHIEN JUBA BARNES, Jr.,
Plaintiff,

v.

CITY OF YORK, *et al.*,
Defendants.

No. 1:10-CV-01684

(Judge Conner)

Electronically Filed

**ANSWER OF DEFENDANT SCOTT NADZOM
TO THE AMENDED COMPLAINT**

Defendant Scott Nadzom submits the following answer to the amended complaint:

1. **DENIED.** After a reasonably diligent investigation, Scott Nazom lacks sufficient information to form a belief about the truth of this averment. This paragraph is, therefore, denied.
2. No Answer. This paragraph contains no factual allegations against Scott Nadzom or the other State Defendants, and no response is required.
3. No Answer. This paragraph contains no factual allegations against Scott Nadzom or the other State Defendants, and no response is required.
4. **DENIED.** By way of further answer, the York County Drug Task Force is a cooperative venture between the District Attorney of York County and the Pennsylvania Office of Attorney General with support from various law enforcement agencies. *See* 42 Pa.C.S. § 8953(a)(3), (d).

5. **ADMITTED in part; DENIED in part.** It is admitted only that Scott Nadzom was employed at all times relevant to this amended complaint by the City of York Police Department. The remainder of this paragraph contains a legal conclusion to which no response is required. To the extent that the remainder of this paragraph contains factual allegations, such allegations are denied.

6. **ADMITTED in part; DENIED in part.** It is admitted that Bart Seelig is a police officer employed by the City of York. The remainder of this paragraph contains legal conclusions to which no response is required. To the extent that the remainder of this paragraph is deemed to contain factual averments, the factual averments are denied.

7. **No Answer.** This paragraph contains no factual allegations against Scott Nadzom or the other State Defendants, and no response is required.

8. **ADMITTED.**

9. **ADMITTED.**

10. **ADMITTED.**

11. **ADMITTED.**

12. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied.

13. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied.

14. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied.

15. **DENIED.** This paragraph contains no factual allegations against Scott Nadzom or the State Defendants, and no response is required.

16. **DENIED.** This paragraph contains no factual allegations against Scott Nadzom or the State Defendants, and no response is required.

17. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied.

18. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied.

19. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied.

20. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied.

21. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied.

22. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied.

23. **DENIED.**

24. **ADMITTED in part; DENIED in part.** It is admitted that defendants Wolfe, Seelig, and Nawrocki were present during certain events involving the plaintiff on August 12, 2008. The context and language of this paragraph are, however, too vague to determine the allegation being made by plaintiff. Any allegations contained in this paragraph are, therefore, denied.

25. **DENIED.**

26. **DENIED.**

27. **ADMITTED in part; DENIED in part.** It is admitted that defendant Seelig employed a Taser during the course of plaintiff's arrest. It is denied that defendant Seelig "tazed" plaintiff in the face, groin and feet.

28. **DENIED.**

29. **DENIED.**

30. **DENIED.**

31. **DENIED.** This paragraph contains legal conclusions to which no response is required. To the extent that this paragraph is deemed to contain factual averments, such factual averments are denied.

32. **DENIED.** This paragraph contains legal conclusions to which no response is required. To the extent that this paragraph is deemed to contain factual averments, such factual averments are denied.

33. **DENIED.** This paragraph contains legal conclusions to which no response is required. To the extent that this paragraph is deemed to contain factual averments, such factual averments are denied.

34. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied.

35. **DENIED.** This paragraph contains legal conclusions to which no response is required. To the extent that this paragraph is deemed to contain factual averments, such factual averments are denied.

36. The responses to paragraphs 1 through 35 are incorporated herein by reference.

37. **DENIED.** This paragraph contains legal conclusions to which no response is required. To the extent that this paragraph is deemed to contain factual averments, such factual averments are denied.

38. **DENIED.** This paragraph contains legal conclusions to which no response is required. To the extent that this paragraph is deemed to contain factual averments, such factual averments are denied.

39. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied.

40. **DENIED.** This paragraph contains legal conclusions to which no response is required. To the extent that this paragraph is deemed to contain factual averments, such factual averments are denied.

41. The responses to paragraphs 1 through 40 are incorporated herein by reference.

42. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied. Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

43. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual

averments, the factual averments are denied. Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

44. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied. Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

45. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied. Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

46. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied. Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

47. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied. Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

48. The responses to paragraphs 1 through 47 are incorporated herein by reference.

49. **DENIED.** This paragraph contains legal conclusions to which no response is required. To the extent that this paragraph is deemed to contain factual averments, such factual averments are denied. Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

50. **DENIED.** This paragraph contains legal conclusions to which no response is required. To the extent that this paragraph is deemed to contain factual averments, such factual averments are denied. Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties. Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

51. **DENIED.** This paragraph contains legal conclusions to which no response is required. To the extent that this paragraph is deemed to contain factual averments, such factual averments are denied. Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

52. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied. Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

53. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied. Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

54. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied. Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

55. The responses to paragraphs 1 through 54 are incorporated herein by reference.

56. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied. Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

57. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied. Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

58. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain

factual averments, the factual averments are denied. Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

59. The responses to paragraphs 1 through 58 are incorporated herein by reference.

60. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied. Furthermore, the allegations in this paragraph against the York County Drug Task Force have been voluntarily dismissed by stipulation of the parties.

61. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied. Furthermore, the allegations in this paragraph against the York County Drug Task Force have been voluntarily dismissed by stipulation of the parties.

62. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied. Furthermore, the allegations in this paragraph against the York County Drug Task Force have been voluntarily dismissed by stipulation of the parties.

63. The responses to paragraphs 1 through 62 are incorporated herein by reference.

64. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied. Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

65. The responses to paragraphs 1 through 64 are incorporated herein by reference.

66. No answer. This paragraph contains no allegations against the State Defendants. Furthermore, the allegations in this paragraph against the York County Drug Task Force have been voluntarily dismissed by stipulation of the parties.

67. The responses to paragraphs 1 through 66 are incorporated herein by reference.

68. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied. Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

69. **DENIED.** Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

70. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied. Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

71. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied. Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

72. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied. Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

73. The responses to paragraphs 1 through 72 are incorporated herein by reference.

74. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied. Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

75. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain

factual averments, the factual averments are denied. Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

76. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied. Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

77. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied. Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

78. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied. Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

79. The responses to paragraphs 1 through 78 are incorporated herein by reference.

80. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied. Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

81. **DENIED.** Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

82. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied. Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

83. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied. Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

84. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied. Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

85. The responses to paragraphs 1 through 84 are incorporated herein by reference.

86. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied. Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

87. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied. Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

88. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied. Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

89. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied. Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

90. **DENIED.** This paragraph contains a legal conclusion to which no response is required. To the extent that this paragraph is deemed to contain factual averments, the factual averments are denied. Furthermore, the allegations in this paragraph have been voluntarily dismissed by stipulation of the parties.

FIRST AFFIRMATIVE DEFENSE

Plaintiff cannot establish a claim upon which relief may be granted under the Fourth Amendment.

SECOND AFFIRMATIVE DEFENSE

Plaintiff cannot establish a claim of “bystander liability” or “supervisory liability.”

THIRD AFFIRMATIVE DEFENSE

Scott Nadzom and the State Defendants acted at all times with the good-faith belief that their conduct was lawful, and they are entitled to immunity.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff’s demand for a specific amount of money in damages violates Middle District Local Rule 8.1.

WHEREFORE, judgment should be entered in favor of Scott Nadzom.

Respectfully submitted,

**LINDA L. KELLY
Attorney General**

By: s/Patrick S. Cawley
**PATRICK S. CAWLEY
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**SUSAN J. FORNEY
Chief Deputy Attorney General
Chief, Litigation Section**

Date: June 8, 2011

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Defendants.**

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CERTIFICATE OF SERVICE

I, **Patrick S. Cawley**, Deputy Attorney General, hereby certify that on this date a copy of the foregoing “Answer of Defendant Scott Nadzom to the Amended Complaint” was served via the Middle District Court’s electronic filing system to the following individuals:

Jeffrey Philip Paul, Esquire
Law Offices of Jeffrey Philip Paul
124 East Chestnut Street
Lancaster, PA 17602
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Timothy S. Judge, Esquire
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Attorney for Defendant Nawrocki

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*Attorney for defendants City of York
and H. Stanley Rebert*

s/Patrick S. Cawley
PATRICK S. CAWLEY
Deputy Attorney General

Date: June 8, 2011